

## **REMARKS**

The above Amendments and these Remarks are in reply to the Office Action mailed December 14, 2006. The Examiner and his supervisor, Examiner Sheikh, are thanked for extending the courtesy of a telephone interview on Thursday 8<sup>th</sup> February, 2007 at 8AM PST. During the interview, the Applicant pointed out that Clouatre (“The Diet and Health Benefits of HCA”) and Policiapelli (US 5,612,039) do not teach or suggest the pH conditions or ‘active’ form of alkali metals and alkaline earth metals necessary to displace the hydroxycitric acid cation to form a double salt. As such, the Examiner’s agreed that Clouatre and Policiapelli did not teach or suggest double or triple salts.

Claims 25-27, 29 and 31-41 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 25-27, 29 and 31-41. Claims 25-27, 29 and 31-41 remain for the Examiner’s consideration. Reconsideration and withdrawal of the rejections are respectfully requested.

### **A) Claim Rejections - 35 U.S.C. § 103**

Claims 25-27 and 31-39 are rejected under 35 U.S.C. §103(a), as being unpatentable over US 5,612,039 (hereafter ‘039) in view of Clouatre et al. (“The Diet and Health Benefits of HCA”) (hereafter “*Clouatre*”).

The Examiner states that ‘039 teaches a dietary supplement comprising the calcium salt of Garcinia cambogia. Further, the Examiner states that ‘039 does not teach adding potassium. Next, the Examiner states that *Clouatre* suggests “...it may be advantageous to combine potassium with hydroxycitric acid ...” (page 3, second full paragraph, lines 2-3, office action December 14, 2006).

There is no evidence that *Clouatre* envisages exchanging the form of the hydroxycitric acid salt from calcium to potassium let alone to a calcium/potassium double salt or any other form of double salt. The Applicant directs the Examiner to the definition of salt in the field of chemistry “salt is a neutral compound composed of ions” (see <http://www.babylon.com/definition/salt/English>, last visited January 19, 2007). *Clouatre* and ‘039 do not teach or suggest the pH conditions or ‘active’ form of alkali metals and alkaline earth metals necessary to displace the hydroxycitric acid cation to form a double or triple salt.

Because ‘039 combined with *Clouatre* do not teach or suggest hydroxycitric acid in the form of a double or triple salt they do not teach or suggest all limitations of these claims.

Claims 31-39 all directly or indirectly depend from independent Claim 25, and are therefore believed patentable for at least the same reasons as the independent Claim 25 and because of the additional limitations of these claims.

The Examiner is respectfully requested to reconsider the 35 USC §103 rejection.

#### **B) Double Patenting Double Patenting - 35 U.S.C. § 101**

Claims 25, 26 and 29 are provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 3-5, 7-9 and 12 of co-pending U.S. Application No.: 11/209,429 ('429).

The Applicant respectfully requests that should a statutory double patenting issue remain, then it be addressed when an application is otherwise in condition for allowance.

**C) Double Patenting (non-statutory)**

Claims 31, 32 and 38-41 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-2, 6, 10-11 and 13-36 of co-pending U.S. Application No.: 11/209,429 ('429).

The Applicant respectfully requests that should a non-statutory double patenting issue remain, then it be addressed when an application is otherwise in condition for allowance.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the double patenting rejections.

## **CONCLUSION**

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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